

**BEFORE THE ARKANSAS WORKERS' COMPENSATION COMMISSION
WCC NO. H202476**

**SONJA WOODSON,
EMPLOYEE**

CLAIMANT

**FEDEX GROUND PACKAGE SYSTEM, INC.,
SELF-INSURED EMPLOYER**

RESPONDENT

**SEDGWICK CLAIMS MGMT SERVICES, INC.,
TPA**

RESPONDENT

OPINION FILED NOVEMBER 19, 2024

Hearing conducted on Tuesday, November 5, 2024, before the Arkansas Workers' Compensation Commission (the Commission), Administrative Law Judge (ALJ) Steven Porch, in Little Rock, Pulaski County, Arkansas.

The Claimant, Ms. Sonja Woodson, *Pro Se*, of Jonesboro, Arkansas, did not appear in person at the hearing.

The Respondents were represented by the Honorable Zach Ryburn, Little Rock, Arkansas.

I. BACKGROUND

This matter comes before the Commission on a Motion to Dismiss filed by Respondents. A hearing on the Motion was conducted on November 5, 2024, in Little Rock, Arkansas. Claimant, according to Commission file is *Pro Se*, failed to appear at the hearing.

The Claimant worked for the Respondent/Employer as a Senior Operations Assistant. The date for Claimant's alleged injury was on December 23, 2021. She reported her injury to Respondent/Employer the same day. Respondents admitted Respondents Exhibit 1, Form AR-C, consisting of 1 page. Also, admitted into evidence was blue-backed Form AR-C filed March 28, 2022, Form AR-C filed May 13, 2024, Form AR-C filed December 1, 2023, Form AR-1, Form AR-2, a copy of certified return receipt dated October 12, 2024, a copy of certified return receipt

dated September 18, 2024, Irene Voyles email dated April 12, 2022, and copy of hearing notice, *as discussed infra*.

The record reflects on March 28, 2022, a Form AR-C was filed with the Commission, by then-attorney Laura Beth York, purporting that Claimant injured her head, neck, and back. Claimant's counsel subsequently filed another Form AR-C on December 1, 2023, and another on May 13, 2024, with no notable difference from the March 28, 2022, Form AR-C filing. Nevertheless, on April 11, 2022, a Form AR-1 was filed with the Commission purporting that Claimant's injuries occurred when she slipped on a metal rod and fell hitting her head on the floor. On March 29, 2023, a Form AR-2 was filed by Respondents denying compensability of the injury. Respondents, via email dated April 12, 2022, acknowledged acceptance of the claim as medical-only for the head contusion, cervical neck strain, and lumbar strain. The email also asserted that the Claimant had reached maximum medical improvement and has been released from care.

The Claimant, through her then-attorney, filed a change of physician request on May 17, 2024. No action has been taken towards this request due to Respondents now denying the claim in its entirety. On July 26, 2024, Claimant's counsel filed a Motion to Withdraw as Counsel. The Full Commission granted Claimant's counsel Motion on August 14, 2024.

The Respondents next filed a Motion to Dismiss on August 23, 2024, requesting this claim be dismissed for a lack of prosecution. The Claimant was sent, certified and regular U.S. Mail, notice of the Motion to Dismiss from my office on August 26, 2024, to her last known address. The certified motion notice was unclaimed by Claimant as noted in the September 18, 2024, return receipt. However, the motion notice that was sent regular U.S. Mail was not returned to the Commission. Claimant did not respond to the notice in writing as required. Thus, in accordance with applicable Arkansas law, the Claimant was mailed due and proper legal notice of

Respondents' Motion to Dismiss hearing date at her current address of record via the United States Postal Service (USPS), First Class Certified Mail, Return Receipt Requested, and regular First-Class Mail, on September 20, 2024. The certified notice was not claimed according to the October 12, 2024, return notice; but the regular First-Class mail hearing notice was not returned to the Commission. The hearing took place on November 5, 2024. And as mentioned before, the Claimant did not show up to the hearing.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record as a whole and other matters properly before the Commission, I hereby make the following findings of fact and conclusions of law in accordance with Ark. Code Ann. § 11-9-704 (Repl. 2012):

1. The Commission has jurisdiction over this claim.
2. The Claimant and Respondents both had reasonable notice of the November 5, 2024, hearing.
3. Respondents have proven by the preponderance of the evidence that Claimant has failed to prosecute his claim under AWCC Rule 099.13.
4. The Respondents' Motion to Dismiss should be granted.
5. This claim is hereby dismissed without prejudice.

III. DISCUSSION

AWCC 099.13 provides:

Upon meritorious application to the Commission from either party in an action pending before the Commission, requesting that the claim be dismissed for want of prosecution, the Commission may, upon reasonable notice to all parties, enter an order dismissing the claim for want of prosecution.

See generally Johnson v. Triple T Foods, 55 Ark. App. 83, 85, 929 S.W.2d 730 (1996).

Consistent with AWCC Rule 099.13, the Commission scheduled and conducted a hearing, with reasonable notice, on the Respondents' Motion to Dismiss. Though the certified hearing notice was unclaimed, that same notice was also sent to the Claimant's address of record by First-Class U.S. Mail on September 20, 2024, and did not return to the Commission. The Claimant is responsible for providing the Commission with her current address. The Commission is responsible for providing reasonable notice of a hearing to the Claimant. Sending a hearing notice to the last known address that was provided to it by the Claimant is reasonable. Thus, I find by the preponderance of the evidence that reasonable notice was given to both parties.

AWCC Rule 099.13 allows the Commission, upon meritorious application, to dismiss an action pending before it due to a want of prosecution. The Claimant filed her Form AR-C on March 28, 2022. Since the filing of Claimant's Form AR-C then, she has failed to request a hearing. Therefore, I do find by the preponderance of the evidence that Claimant has failed to prosecute her claim by failing to request a hearing. Thus, Respondents' Motion to Dismiss should be granted.

CONCLUSION

Based on the Findings of Fact and Conclusions of Law set forth above, Respondents' Motion to Dismiss is hereby granted, and Claimant's claim is dismissed *without prejudice*.

IT IS SO ORDERED.

STEVEN PORCH
Administrative Law Judge